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PART – I

Notifications, Orders and Declarations by Haryana Government

HARYANA GOVERNMENT

IRRIGATION & WATER RESOURCES DEPARTMENT

Order

The 1st July, 2019

[Clause 13 of Haryana Government Notification No. 2178-R-5-2018/8500]

Subject:— Information to the original land owners/their legal heirs regarding de-notification and consequently return of their land which was acquired for Dadupur-Nalvi Irrigation Scheme.

No. 2/107/2017-11W.— Dadupur Nalvi Irrigation Scheme was originally conceived in Nineteen Eighties as an irrigation project for the districts of Yamunanagar, Kurukshetra and Ambala. This project was to cost Rs.13 crore and it was planned to release 590 cusecs water from river Yamuna by taking off a channel from Dadupur. The consequent shortfall in Yamuna waters was to be supplemented at Munak from surplus Ravi-Beas waters, once it was received through Satluj Yamuna Link Canal (SYL). The proposal was to construct Shahbad Feeder, Shahbad Distributary, Nalvi Distributary and 22 number other offtaking channels. All the channels were proposed to be lined. The project was to be completed in 3 years. A total of 2170.35 acres land was to be acquired for this project. Total 347 number villages were to be benefitted after implementation of this irrigation Scheme. For implementing the Scheme, 190.085 acres land was acquired during 1987-1990. However, no further action to acquire the balance land was taken up till about 2004.

2. In the year 2004, a fresh cost estimate in respect of the same project was prepared for Rs.167.62 crore. In this proposal, it was decided to keep all the channels unlined in the initial stage and to run the Scheme for meeting only the Kharif requirements of the area and for recharging of the water table by utilizing Yamuna waters during rainy season, whenever surplus water is available at Dadupur. Acquisition of 2135.43 acres of land was to be done for the project. The number of channels and their length remained almost the same. The Scheme was administratively approved and foundation stone was laid on 25.11.2004 and process of acquisition for remaining land was restarted.

3. The revision of the Scheme in 2004, to construct unlined channel's that too, to be run for Kharif period only, was a big set back to the Scheme and was a clear acknowledgment of the fact that the water availability for the Scheme had drastically come down to less than one-sixth as compared to the original plan because of non-operationalisation of SYL and consequent non-receipt of Ravi- Beas Waters .Surplus water at Dadupur is not likely to be available for more than 2 months in a year.

4. In October 2005, the project was again reconsidered and approved by the Government for Rs.267.27 crore. As per this project proposal, 2247.53 acres of land was to be acquired for construction of this Scheme. Out of this, the department acquired a total of 1020.18725 acres land (including 190.085 acres acquired during 1980's) for construction of only the main channels i.e. Shahbad Feeder, Shahbad Distributary and Nalvi Distributary.

5. The Scheme received its second major setback in the year 2008, when the acquisition of land for constructing its 22 number offtaking Minors, which were to irrigate 46,266 hectares (1,14,325 acres approximately) area of the aforementioned three districts, was shelved due to resistance of land owners/farmers. The farmers were not interested to give their land for construction of offtaking channels due to the fact that water would be available to them only during rainy season, when they do not require the same. A decision to this effect was taken by the Government on 10.12.2008, not to acquire land for minors till demand is raised by the villagers. Hence the Government abandoned the construction of Minors offtaking from above mentioned three distributaries. Resultantly, as the minors could not be constructed, the Scheme remained incomplete and the intended purpose of irrigation could not be fulfilled. As a matter of facts, without acquiring the balance 1227.3427 acres (2247.53-1020.18725) of land, the objective of irrigation cannot be fulfilled.

6. Further, the availability of excess water through Yamuna at Dadupur is usually quite low. Without SYL waters, the Scheme had lost much of its relevance. Furthermore, even when excess water is available at Dadupur for about two months a year, designed discharge of 590 cusecs cannot be released into Shahbad Feeder, since offtaking channels have not been constructed. Resultantly, even the purpose of recharging is being fulfilled to a much lesser extent and over a much smaller area only.

7. The Comptroller & Auditor General of India (CAG), in its annual report of year 2011-12 on Social General & Economic Sectors (Non Public Sector Undertakings) Report No.3 of the year 2013, observed that the primary objective of project of providing canal irrigation could not be fulfilled. It was reported that the project was conceived without survey of the area about the usefulness of the project and without ascertaining the views of the farmers. The Audit declared the expenditure as unfruitful as the primary objective of irrigation could not be fulfilled.

8. On the other hand, the land owners whose land was acquired from the year 2005 onwards, were not satisfied with the award of lower courts and filed RFAs in Hon'ble Punjab & Haryana High Court, Chandigarh. Hon'ble Punjab & Haryana High Court has pronounced judgement dated 05.05.2016 awarding compensation @ Rs.2887/- per sqm. which works out as Rs.116.83 lacs per acre plus incidental charges. It roughly comes out to Rs.3.50 crore per acre. However the irony is that there is no way that the Scheme can be made fruitful even after making payment of this huge enhancement amount.

9. The State has already spent more than Rs. 303 crores over the past 30 years on a Scheme, which has been declared "Unfruitful" by the CAG. Besides the fact that the incomplete Scheme has been rendered unfruitful as it cannot achieve its primary objective of Irrigation, the Government is now required to pay out astronomically high price for the acquired land to the tune of nearly Rs.3.5 crore per acre. There is no point in spending tax payer's money on a project which cannot be completed and has become unviable totally and furthermore, even if the steps are taken to complete the same, the project can't yield any positive result in public interest, since the completion would require further acquisition which is being resisted by the farmer landowners.

10. From the above discussion, it can be gathered that after the year 2005, the Government was required to acquire 830.10225 acres land for Feeder & Distributaries and another 1227.3427 acres for minors. The Government could acquire land only for Feeder and Distributaries and process of acquisition of minor had to halted and abandoned due to resistance by landowner farmers. Without contribution of minors, the primary objective of irrigation can not be fulfilled. In absence of minors and irrigation, the extent and area of recharge has also got drastically reduced. The Scheme has thus become unfruitful. Now the huge pay-out requirement on account of enhancement, has rendered the Scheme totally unviable. Even if the Government were to further strain its limited financial resources, the scheme will still remain incomplete and unfruitful as there is literally so possibility of acquisition of land for minors. The public interest of irrigating 1,14,325 acres of land can not be achieved even if this huge pay- out were to be made. Resultantly, 830.10225 acres land acquired for this Scheme from the year 2005 onwards, has become totally unviable. Out of this, only 5.39225 acres land is required by the Government since the same stands utilized for the purpose of construction of road joining Jagadhari Chhachhrauli road with Jagadhari Ambala road.

11. Therefore, the Government has de-notified 824.71 acres of land vide notification No.2/107/2017-IIW dated 3rd August, 2018. The Government has further de-notified 5.39225 acres of land vide notification No.2/107/2017-IIW dated 11.12.2018 by offering alternative land to the land owner farmers as per the provisions of the proviso attached to Section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment Act) Act, 2017.

12. Now, this order is being passed as per the provisions of clause 13 of the Notification No. 2178-R-5-2018/8500 dated 14th September, 2018 to inform the original land owners and their legal heirs about the decision of the Government to return the aforesaid land. The original owners or their legal heirs shall return the compensation excluding solatium paid to them along with simple interest @9% per annum from the date of receipt of compensation by them till the date of return of compensation by depositing the same with Land Acquisition Officer, Ambala. The possession of the land will be delivered only after the compensation amount is returned and it shall be responsibility of the Superintending Engineer, Irrigation and Land Acquisition Officer concerned to ensure delivery of possession of land within three months of the return of compensation alongwith interest. The Government has also decided to waive even the simple interest for the landowner farmers who do not claim compensation for usage or damages of any kind like usage by Government after acquisition, damages for restoration of land etc. However, those landowners who seek compensation for usage and damages, will have to pay simple interest @ 9% per annum. While submitting their claims to the Land Acquisition Officer Ambala, the landowners should indicate their choice as to whether they would make payment interest and claim of compensation for usage of damages or not.

13. In view thereof the person[s] interested or the landowner[s] as the case may, are hereby given an opportunity to present their claims as aforesaid, if any in this regard duly quantified and substantiated which such evidence as may be necessary in support of their claims, to the office of Superintending Engineer, Hathnikund Barrage Circle, Jagadhari at Yamunanagar and /or in the office of Land Acquisition Officer Ambala, on or before August 31st, 2019, so as to enable the Department to take further action thereon.

Chandigarh:
The 1st July, 2019.

ANURAG RASTOGI,
Principal Secretary to Government Haryana,
Irrigation & Water Resources Department.